

### **REMARKS**

Claims 1-5, 7-17, 19-49, and 51-58 are pending in the subject application. Claims - are amended. Applicants submit that the amendments herein introduce no new matter, support therefore being found throughout the application and drawings as originally filed.

The Applicants appreciate the Examiner's thorough examination of the subject application and request reconsideration based on the amendments and the following remarks.

#### **35 U.S.C. §103 Rejections**

Claims 1-3, 5, 7-17, 19-49, and 51-58 are rejected under 35 U.S.C. §§103(a) over U.S. Patent No. 4,175,704 to Cohen (hereinafter "Cohen") and U.S. Patent No. 5,059,188 to Goddard (hereinafter "Goddard"). Applicants respectfully traverse.

The Office has previously acknowledge that Cohen does not teach or suggest delivery of a spray or mist with maximum dimensions (with respect to independent claims 1 and 57) or in an elliptical shape (with respect to independent claim 2).

The Office asserts that "Goddard teaches a device for delivering substances to the eye that delivers the substance from nozzle hole opening with a diameter of 1-2 mm as set forth in col. 3, lines 23-24". The Office then concludes that it would be obvious to provide Cohen's hole opening to obtain Applicants' claimed range as demonstrated by Godddard's use of a device to deliver substances to the eye.

Applicants disagree.

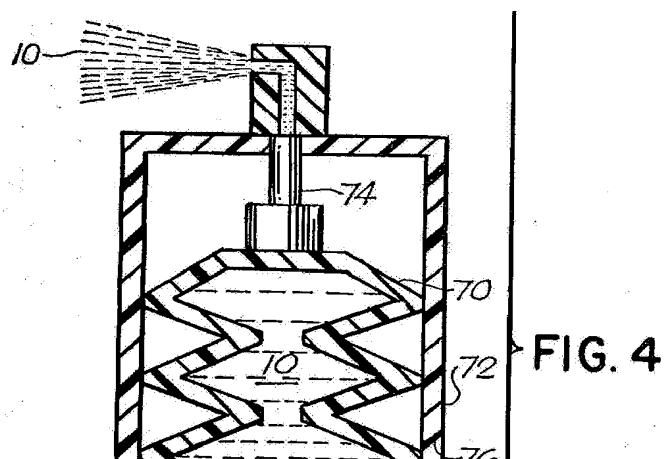
Cohen describes aerosol delivery of a substance and, thus, the substance is provided through a nozzle opening in the form of a mist. Goddard describes an eye

dropper that delivers a drop of substance through a hole with the aid of gravity. There is no relationship between the size of Cohen's nozzle and that of Goddard's opening and their relative size of substance delivered – Cohen delivers a mist while Goddard delivers a drop. One of skill in the art would not look to a dropper hole dimension to suitably modify a spray nozzle opening.

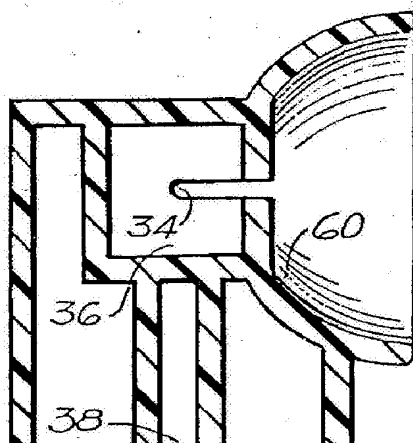
There is absolutely no teaching or suggestion that providing a nozzle opening with a diameter of 1-2 mm (e.g. as allegedly used by Goddard for delivering a drop of material) will provide a spray or mist to the eye with a maximum height of 15 mm and a maximum width of 30 mm when the outlet port is positioned up to about 30 cm away from the eye. Further, the Office has not pointed to any relationship between a hole opening of 1-2 mm and Applicants' spray profile as claimed.

In view thereof, it is submitted that claims 1 and 57, and all claims dependent therefrom are clearly patentable over Cohen and Goddard. Reconsideration and withdrawal of the rejection is respectfully requested.

With respect to delivery of an elliptical shaped spray, the Office points to Goddard's Figure 4, which the Office alleges shows an elliptical shaped substance delivery. Applicants disagree. Figure 4 shows a side profile (one dimensional) view of the spray:



There is nothing in this profile view or anywhere else in the Goddard reference to indicate or even suggest that the spray is in an elliptical shape rather than a conventional circular spray. It is further noted that according to Goddard, only the device depicted in Figs. 7 and 8 are designed for delivery to the eye – this configuration requires an eye cup 60 that is held about the eye so as to direct the spray into the eye:



Thus, there is further absolutely nothing in the references to teach or otherwise suggest a device wherein the nozzle opening is sized so as to provide a particular configuration

of spray designed for precise delivery to the eye as taught by Applicants – rather, the references rely upon a cup to direct the spray into the eye.

In view thereof, it is submitted that claim 2, and all claims dependent therefrom are clearly patentable over Cohen and Goddard. Reconsideration and withdrawal of the rejection is respectfully requested.

### **CONCLUSION**

It is respectfully submitted that the subject application is in a condition for allowance. Early and favorable action is requested. If for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge Deposit Account No. 04-1105. The Examiner is invited to contact applicant's undersigned representative by telephone at the number listed below to discuss any outstanding issues.

Respectfully submitted,

Date: February 4, 2011

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